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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7026 OF 2006

Chandrakant Rangnath Kadam ... Petitioner

Versus

Union of India and Ors. ... Respondents

Mr. F.P. Fedrick for Petitioner.

CORAM: F.I. REBELLO &
S.J. VAZIFDAR,JJ.
DATED: FEBRUARY 09, 2007

P.C.:

. The grievance of the petitioner is that examination ought to have been held in the year 1996 but were held in the year 2002 and consequently they be given deemed date of promotion in 1996 and accordingly their pay be fixed. The learned counsel relies on the judgment of the Supreme Court in Union of India Vs. S. Sanatara and Others in C.A. No. 1655 of 1997. We have considered the said order of the learned Supreme Court. In that case, there were two groups for promotion one that can be described as categories of 66.2/3 person and other category of 33.1/2 person. In so far as category of 66.2/3 person their examination was held on time whereas for the category of 33.1/3 person, the examination was not held in time. The tribunal found that as a consequence thereto, those who had appeared for the examination those 33.1/3 were denied advantage

because no fault of theirs and accordingly fixed notional promotion so as to obviate that situation. On the facts of that case, the Supreme Court was pleased to hold that considering the matter, it will not be fit case for the court to intervene in the order passed by the tribunal.

. We are afraid, that the ratio of that judgment cannot be extended to the facts of the present case. The issue which was before the Supreme Court is not in issue before us. The case of the Petitioner only is that the respondent authority did not hold examination in time. That by itself can be no answer. Whether to fill in the post or not is entirely an exercise of the administrative Body.

. On holding examination, the right of the person to be considered, would be of those who have passed the examination and became eligible for consideration. The date on which they are promoted will be the relevant date. The Petitioner therefore, can claim no right that they be given back dated notional promotion on the date on which examination were to be held. In the light of that, no interference is called for. Petition disposed of.

(S.J. VAZIFDAR,J.) **(F.I.REBELLO,J.)**